

Appl. No. 10/826,377
In re Takegawa
Reply to Final Office Action of May 4, 2007

REMARKS/ARGUMENTS

The Examiner is thanked for the Final Official Action dated May 4, 2007. This amendment and request for reconsideration is intended to be fully responsive thereto.

Claims 1-3, 5-8, 14-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino (U.S. Patent No. 6,031,170) in view of Pagliuso (U.S. Patent No. 2,480,382). Claims 4, 10-13 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hoshino in view of Pagliuso, as applied to claims 1, 2 and 15, and further in view of Mindheim (USP 3,942,856). Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino in view of Pagliuso, as applied to Claims 1 and 8, in further view of Liao (U.S. Patent Application Publication No. 2004/0107983). The applicant respectfully disagrees. However, in order to expedite the prosecution of the present application, claim 1 has been amended to incorporate the limitations recited in claims 2 and 4, while claim 15 has been amended to incorporate the limitations recited in claim 17. No new matter has been added. Claims 2, 4 and 17 have been canceled. Claims 3, 5, 10 and 11 have been amended to depend upon claim 1 instead of canceled claim 2. Claims 8 and 18-20 have been canceled, thus rendering the rejection of those claims moot. Claim 9 has been rewritten in independent form to include all the limitation of the base claim 1 and the intervening claim 8 (canceled). No new matter has been added.

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Regarding claims 1 and 15: The examiner alleges that the combination of Hoshino and Pagliuso discloses substantially the claimed invention except for the internal locking assembly comprising a resiliently biased locking plate having a latching portion that engages a detent formed in the spike member, and further cites Mindheim that allegedly teaches (in Fig. 4) “a similar structure having an internal locking assembly comprising a locking plate (the combination of 61, 62, 66) having a latching portion (66) that engages a detent (67) formed in a member (41).” The examiner further alleges that it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the structure of Hoshino and Pagliuso by including an internal locking assembly comprising a locking plate having a latching portion that engages a detent formed in a member, as taught in Mindheim in order to prevent the spike member from being removed or inserted inadvertently.

First, Mindheim fails to disclose a resiliently biased locking plate having a latching portion that engages a detent formed in the spike member. Those skilled in the art would readily realize that the plate is an element having opposite flat surfaces. Contrary to the examiner’s allegations, the combination of 61, 62, 66 of Mindheim is in the form of a generally cylindrical plunger 56 (see column 2, lines 36-37), not a plate. Moreover, the cylindrical plunger 56 of Mindheim is not resiliently biased. Therefore, even if the combination of and modification of Hoshino, Pagliuso and Mindheim suggested by the Examiner could be made, the resulting tip structure for a support leg still would lack the resiliently biased locking plate.

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Second, MPEP § 2143.01 requires that there must be some suggestion or motivation, either in the prior art references or in the knowledge generally available to one of ordinary skill in the art, to modify or combine teachings of the prior art. The safety socket assembly of Mindheim prevents insertion or complete removal of the electrical plug to or from the socket housing, while the locking device of Pagliuso prevents the spike from retracting back into the tripod leg, as the spike of Pagliuso is not removable from the tripod leg, but rather movable between extended and retracted positions. Thus, the modification of the structure of Hoshino and Pagliuso by including the locking device of Mindheim suggested by the examiner not only lacks any suggestion, motivation or logical reason, but teaches away from the claimed invention (MPEP 2144.05.III), as the combination of Hoshino Pagliuso and Mindheim would suggest a removable spike rather than retractable. Thus, the rejection of claim 1 under 35 U.S.C. 103(a) is improper.

Third, Examiner's modification of Hoshino in view of Pagliuso and further in view of Mindheim is improper because in order to rely on a reference as a basis for rejection of an applicant's invention, the reference must be in the field of applicant's endeavor or be reasonably pertinent. In other words, to rely on the reference under 35 U.S.C. 103, it must be analogous prior art. The invention of Mindheim pertains to electrical outlets and connectors, more particularly to a safety socket assembly for preventing injury to persons such as children who insert foreign objects into the socket (see col. 1, lines 5-8 of Mindheim). Clearly, the safety electrical socket assembly of Mindheim and the tip structure for a support leg of a musical instrument stand have very different purpose and structure. Therefore, the claimed invention and

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the safety electrical socket assembly of Mindheim are not part of the same endeavor, i.e. the safety socket assembly of Mindheim is non-analogous prior art. Hence, the combination and modification of Hoshino, Pagliuso and Mindheim suggested by the Examiner cannot be made, and, thus, the rejection of claim 1 under 35 U.S.C. 103(a) is improper.

Therefore, claims 1, 3, 5-7 and 10-16 define the present invention over the prior art.

Further regarding claim 10: in addition to the above arguments regarding the patentability of claim 1 and contrary to the Examiner's allegations, Mindheim fails to disclose the L-shaped resiliently biased locking plate. In fact, as clearly disclosed and illustrated by Mindheim, the combination of 61, 62, 66 of Mindheim, interpreted by the examiner as the L-shaped plate, is in the form of a generally cylindrical axially elongated straight plunger 56 (see Figs. 2, 4 and 6; and column 2, lines 36-37), not a plate. Thus, the rejection of claim 10 under 35 U.S.C. 103(a) is improper.

Further regarding claims 11 and 12: in addition to the above arguments regarding the patentability of claim 1 and contrary to the Examiner's allegations, Mindheim fails to disclose the locking plate formed with a latching aperture through which the spike member is adapted to pass. In fact, as clearly disclosed and illustrated by Mindheim, the combination of 61, 62, 66 of Mindheim, interpreted by the examiner as the locking plate, has no apertures whatsoever (see Figs. 2, 4 and 6). Thus, the rejection of claims 11 and 12 under 35 U.S.C. 103(a) is improper.

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Further regarding claim 13: in addition to the above arguments regarding the patentability of claim 12 and contrary to the Examiner's allegations, Mindheim fails to disclose the spike member comprises an annular groove engaging the second diameter in the projecting position. In fact, as clearly disclosed and illustrated by Mindheim, the prong 41 of the plug 37 of Mindheim, interpreted by the examiner as the spike, has no annular groove whatsoever (see Figs. 1, 2 and 4). Thus, the rejection of claim 13 under 35 U.S.C. 103(a) is improper.

New claim 21 has been added. Claim 21 corresponds to the claim 9 rewritten in independent form to include all the limitation of the base claim 1 and the intervening claim 8 (canceled). No new matter has been added.


Regarding claims 9 and 21: The examiner alleges that the combination of Hoshino and Pagliuso discloses substantially the invention recited in claim 9 except for at least one pivot limiting member for limiting a range of pivotal motion between the main body and the support leg, and cites Liao that allegedly "teaches (in Figs. 3-5) a similar structure having at least one pivot limiting member (70, 76) for limiting a range of pivotal motion between a main body (14) and a support leg (10)." The tip structure of support legs of musical instrument stand of the present invention is provided for stabilizing the stand for the musical instrument and without causing shifting of the stand (see page 2, lines 18-20 of the present application). On the contrary, the objective of a walking aid of Liao is to provide a joint mechanism with a reduced degree of mechanical

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stiffness (Paragraph 0012). In other words, the whole purpose of the joint mechanism of Liao is to continuously flex the tip 14 of the walking aid relative to the rod 10, while the support legs of the musical instrument stand have to sturdily and rigidly (i.e. with high degree of mechanical stiffness) support the musical instrument. Thus, the modification of the structure of Hoshino and Pagliuso by including the joint mechanism of Liao suggested by the examiner not only lacks any suggestion, motivation or logical reason, but teaches away from the claimed invention (MPEP 2144.05.III). Accordingly, the rejection of claim 21 under 35 U.S.C. 103(a) is improper.

It is respectfully submitted that claims 1, 3, 5-16 and 21 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly solicited. Should the Examiner believe further discussion regarding the above claim language would expedite prosecution they are invited to contact the undersigned at the number listed below.

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